

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

TIMOTHY DEMBY

VS.

JOSHUA JOSEPH JEANPIERRE
AND QUALITY CARRIERS, INC.

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Civil Action No.: 3:21-cv-4

DEFENDANT QUALITY CARRIERS, INC.' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THIS COURT:

Defendant, Quality Carriers, Inc. files this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, removing this dispute to the United States District Court for the Southern District of Texas, Galveston Division.

PENDING STATE SUIT

1. On December 8, 2020, Plaintiff, Timothy Demby commenced an action in the 253rd Judicial District Court of Chambers County, Texas, captioned Cause No. 20DCV0839; *Timothy Demby v. Joshua Joseph Jeanpierre and Quality Carriers, Inc.*, in which Plaintiff seeks damages allegedly resulting from a motor vehicle collision that occurred on or about March 18, 2020, in Chambers County, Texas. *See* Plaintiff's Original Petition at ¶ 10, Ex. A.

GROUND FOR REMOVAL

2. The state court action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332, and may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and diversity of citizenship exists between the properly joined parties.

A. Amount In Controversy Exceeds \$75,000

3. Under 28 U.S.C. §1446(c)(2), if removal is sought on the basis of the jurisdiction conferred by 28 U.S.C. §1332, the sum demanded in good faith in the initial pleadings shall be deemed to be the amount in controversy. *See* 28 U.S.C. §1446(c)(2). In his Original Petition, Plaintiff claims that he sustained “serious bodily injuries” as a result of the alleged collision. *See* Plaintiff’s Original Petition at ¶ 10, Ex. A. Plaintiff seeks to recover damages for past and future: reasonable medical care and expenses; physical pain and suffering; loss of earnings; mental anguish; and physical impairment. *Id.* at ¶ 14.

4. Additionally, Plaintiff specifically pleads that he seeks “monetary relief of over \$100,000.00 but not more than \$1,000,000.00.” *Id.* Therefore, Plaintiff clearly believes his damages are more than \$75,000.

B. Diversity of Citizenship

5. Plaintiff is a citizen of Harris County, Texas. *See* Plaintiff’s Original Petition at ¶ 2.

6. Defendant, Joshua Joseph Jeanpierre is a citizen of the State of Louisiana.

7. Plaintiff’s assertion that Defendant, Quality Carriers, Inc. is a Texas corporation is incorrect. *See* Plaintiff’s Original Petition at ¶ 4. In actuality, Quality Carriers, Inc. is a corporation existing under the laws of the State of Illinois with its principal place of business in the State of Florida, and that information is a matter of public record and is easily accessible by anyone.

PROCEDURAL REQUIREMENTS FOR REMOVAL

8. Upon filing of this Notice of Removal of the cause, Defendant gave written notice of the filing to Plaintiff and his counsel as required by law. A copy of this Notice is also being filed with the Clerk of the Court in Chambers County, Texas, where this cause was originally

filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a). This removal is timely filed within 30 days of Plaintiff's lawsuit being served upon Defendant, Quality Carriers, Inc. Joshua Joseph Jeanpierre agrees with this removal.

STATE COURT DOCUMENTS

9. The following documents are attached to this Notice of Removal:

Exhibit "A" Plaintiff's Original Petition

Exhibit "B" Proof of Service

Exhibit "C" An index of matters being filed.

C-1 Copy of the state court Docket Sheet/Record.

C-2 Copy of process.

C-3 A list of all counsel of record, addresses, telephone numbers, and parties.

C-4 Civil Cover Sheet

TIMING OF REMOVAL

10. Defendant Quality Carriers, Inc. was served with Plaintiff's Original Petition on or about January 4, 2021.

11. This Notice of Removal is being filed within 30 days of service of the Plaintiff's Original Petition and is timely filed under 28 U.S.C. § 1446(b).

VENUE

12. This is a statutorily proper venue under the provisions of 28 U.S.C. § 1441(a) because this district and division embrace the county where the removed action was pending.

JURY DEMAND

13. Defendant hereby requests a trial by jury pursuant to FED. R. CIV. P. 38.

PRAYER

14. Defendant has established that the amount in controversy exceeds \$75,000.00. Additionally, Defendant has established that diversity of citizenship exists between the parties in this case. For these reasons, and in conformity with 28 U.S.C. § 1446, Defendant respectfully removes the civil action captioned Cause No. 20DCV0839; *Timothy Demby v. Joshua Joseph Jeanpierre and Quality Carriers, Inc.*, in the 253rd Judicial District Court of Chambers County, Texas. Defendant prays for such other and further relief, both general and special, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

/s/ Les Pickett

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**ATTORNEYS FOR DEFENDANT,
QUALITY CARRIERS, INC.**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been forwarded to all counsel of record via Electronic Court Filing on this 12th day of January 2021:

/s/ Andrew S. Krone
Les Pickett
Andrew S. Krone